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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/522,743	03/10/2000	Alan D. Eyre	NTL-3.2118/3229(11513SC)	4725

26345 7590 03/10/2004

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EXAMINER

WEAVER, SCOTT LOUIS

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 03/10/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.



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Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/522,743

Applicant(s)

EYRE ET AL.

Examiner

Scott L. Weaver

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-97 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-97 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Applicant's arguments filed 12/19/2003 (paper # 6) with respect to claims 1-97 (claims 95-97 previously being overlooked as pointed out via the remarks of paper #6) have been considered and upon further consideration of the subject matter presented it is deemed appropriate to provide the following non-final office action.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-13 and 45-57, drawn to method and apparatus which receives a voice message at local off-hook CPE and which broadcasts the received voice message to a remote CPE, classified in class 379, subclass 67.1.
- II. Claims 14-26, and 58-70, drawn to a method and apparatus which receives incoming call data and generates a voice message associated with the incoming call data which is broadcast to a remote CPE, classified in class 379, subclass 142.06.
- III. Claims 27-37 and 71-81, drawn to a method and apparatus wherein local CPE broadcasts a voice message to a remote CPE and remote CPE uses portion of incoming caller data to determine a corresponding [second?] voice message, classified in class 379, subclass 142.06.
- IV. Claims 38-44, 82-88, and 89-97, drawn to means, method and apparatus for receiving incoming CPE alert tone, detecting FSK signal and determining a voice message as function of at least a portion of the FSK signal with announcing of voice message at the local on-hook CPE, classified in class 379, subclass 373.02.

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3. The inventions are distinct, each from the other because of the following reasons:

Inventions of groups I-IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01).

In the instant case the inventions of groups II-IV do not require receiving an incoming voice message at the local off-hook CPE as in group I., nor do they require being off-hook.

The inventions of groups I, and III-IV do not require determining voice message at local CPE associated with incoming caller data as in group II.

The inventions of groups I-II and IV do not require the remote CPE determining a corresponding voice message as function of a portion of incoming caller data as in group III.

The inventions of groups I-III do not require announcing of voice message at local on-hook CPE as a function of an incoming FSK signal as in group IV, nor do they require being on-hook.

4. Each of the groups of invention as claimed does not require the particulars of each of the other groups of invention as noted above in order to provide its distinctive inventive function as claimed and each could be used, manufactured, and sold as a separate non-related invention. None of the individual inventive features of one respective group could be used as an invention to reject any of the other groups of inventions as claimed, thus adequately and showing definite unrelated differences between the inventions presented as well as the definite differences in required functionality between inventions. It is clear that each group as claimed has not been disclosed as capable of use together and they clearly have different modes of operation, different functions, and different effects as claimed and disclosed. Because these inventions are distinct

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for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.


5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Weaver whose telephone number is 703-308-6974. The examiner can normally be reached on Tuesday to Friday 8 AM to 6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


SCOTT L. WEAVER
PRIMARY EXAMINER
Art Unit 2645